

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE TRUJILLO,

Plaintiff,

v.

MALWA FOOD MART INC, et al.,

Defendants.

Case No. 1:21-cv-01580-AWI-BAM

**ORDER GRANTING PLAINTIFF'S  
REQUEST FOR ADMINISTRATIVE  
RELIEF FROM SERVICE DEADLINE**

(Doc. 12)

Currently before the Court is Plaintiff Jose Trujillo's ("Plaintiff") request to extend the time for service of the summons and complaint on Defendants Malwa Food Mart Inc, Manjit Singh dba US Gas and Food, and Balwinder Singh dba US Gas and Food. (Doc. 12.)

Rule 4 of the Federal Rules of Civil Procedure governs the time limit for service of the summons and complaint and provides, in relevant part, as follows:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). Thus, a showing of good cause requires the Court to grant an extension of time for service. *Id.* However, absent a showing of good cause, the Court also has discretion under Rule 4(m) to either order that service be made within a specified time or to dismiss the

1 action without prejudice. *See id.*; *In re Sheehan*, 253 F.3d 507, 513 (9th Cir. 2001) (“[U]nder the  
2 terms of the rule, the court’s discretion is broad.”).

3 Here, ninety (90) days have passed since Plaintiff filed the complaint on October 25,  
4 2021, and summons issued on October 26, 2021. In support of the request for an extension of  
5 time to complete service, Plaintiff indicates that default has been entered against Defendants  
6 Manjit Singh and Balwinder Singh. (Docs. 7 and 8.) Plaintiff also recently filed proof of service  
7 indicating that Defendant Malwa Food Mart Inc. was served with the summons and complaint by  
8 substituted service. (Doc. 9.) Plaintiff reports, however, that “it appears that service of the  
9 Summons and complaint on Defendants may not have been adequate to give Defendants notice  
10 of the pendency of this action.” (Doc. 12 at 2.)

11 According to the declaration of Plaintiff’s counsel, Plaintiff received a filed a proof of  
12 service for Defendant Malwa Food Mart Inc. from the process service indicating that the  
13 defendant was served by substituted service on a “Jane Doe,” co-occupant, in November 2021.  
14 (Doc. 12-1, Declaration of Tanya Moore ¶ 3.) Because of insufficient information about the  
15 individual who received the documents, counsel is concerned that Defendant Malwa Food Mart  
16 Inc and possibly the other defendants my not have been adequately served and may not have  
17 received notice of this lawsuit. Counsel believes it is necessary to undertake additional service  
18 efforts to ensure Defendant have been properly served prior to requesting default judgment. (*Id.*  
19 at ¶ 4.) Additionally, counsel reports that delays in receiving updates from the process server  
20 were caused, reportedly by the process server’s staffing problems and other issues related to  
21 COVID, and a s a result Plaintiff was unaware until very recently that Defendant Malwa Food  
22 Mart Inc. may not have been adequately served.

23 (Doc. 12 at 2; Doc. 12-1, Moore Decl. at ¶ 5.) Plaintiff therefore requests that he be  
24 given until March 25, 2022, to effect service of the complaint on defendants.

25 Having considered the moving papers, the Court finds good cause to extend the deadline.  
26 Plaintiff has explained efforts to effectuate service and has identified the reasons for delay and in  
27 seeking an extension of the service deadline.

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Accordingly, IT IS HEREBY ORDERED:

1. Plaintiff's Request for Administrative Relief from Service Deadline (Doc.12) is GRANTED; and
2. Plaintiff shall serve Defendants Malwa Food Mart Inc, Manjit Singh dba US Gas and Food, and Balwinder Singh dba US Gas and Food by no later than March 25, 2022.

IT IS SO ORDERED.

Dated: January 24, 2022

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE